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City of Berkeley



City Manager's Office
Martin Luther King, Jr.
Civic Center Building
2180 Milvia Street
Berkeley, California 94704

(415) 644-6580
TTY (415) 644-6915

FOR COUNCIL INFORMATION
April 10, 1984

To: Honorable Mayor and
Members of the City Council

From: Daniel Boggan, Jr., City Manager

Subject: RENT STABILIZATION PROGRAM

This is the third in a series of reports prepared by Rent Stabilization Program staff to provide the City Council and the general public with information about the Rent Stabilization Ordinance, Board regulations and Program operation.

This report has been prepared in order to provide an overview of some of the provisions of the Rent Stabilization Ordinance and Board regulations which specifically protect the rights of tenants in the City of Berkeley. There are eight provisions of the Rent Stabilization Ordinance which address tenants' rights:

- Section 7. Security Deposits;
- Section 8. Rent Registration;
- Section 10. Establishment of Base Rent Ceiling;
- Section 11. Annual General Adjustment of Rent Ceilings;
- Section 12. Individual Adjustments of Rent Ceilings;
- Section 13. Good Cause Required for Eviction;
- Section 14. Retaliation Prohibited;
- Section 15. Remedies

This report will address Section 12., Individual Rent Adjustment process, Section 13., Eviction Controls, Section 14., Retaliation Prohibited, and Section 15., Remedies, as they pertain to tenants in the City of Berkeley. Tenants' rights under the remaining provisions of the Rent Stabilization Ordinance will be addressed in the City Council report for the May 22, 1984 workshop.

In addition, this report will provide preliminary statistical data compiled from the tenants' survey conducted in the fall 1983 in order to provide staff with appropriate data to plan a comprehensive community education and community

April 10, 1984

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Subject: RENT STABILIZATION PROGRAM

outreach program for Berkeley citizens. A similar survey has been mailed to Berkeley landlords this spring and information gathered from that survey will be submitted to Council in the future. This report will also include statistical data prepared in response to a request from the City Council at the March 27, 1984 workshop. Councilmembers requested a report on the success of the administrative Hearings Unit in meeting the 120-day time line for processing the landlord and tenant petitions for individual rent adjustments. A preliminary report has been included for your information and a more comprehensive review, as well as an analysis of the data, will be provided in the May 22 report to Council.

This report is divided into four sections:

Section 1 defines tenants' protections as contained in Chapters 12 and 15 of the Ordinance and Board regulations, and outlines available remedies for the violation of those rights. This section also contains copies of the tenant petition forms presently used and a brief overview of the individual rent adjustment process.

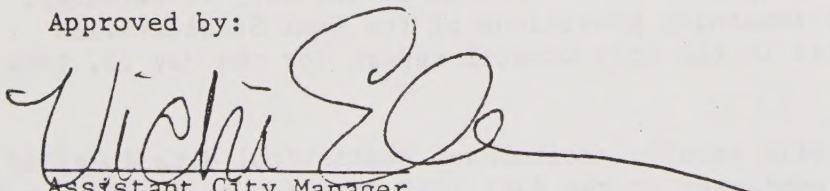
Section 2 is information about eviction provisions of the Rent Stabilization Ordinance, and eviction and retaliatory protections for tenants. This section of the report also contains information about good causes for eviction under the Ordinance, a summary of the eviction process and specific information about the requirements that must be met before tenants maybe legally evicted.

Section 3 is a preliminary statistical report of the responses received from the survey on rent control that was mailed to tenants in the fall of 1983.

Section 4 contains charts representing a comparison of the time line for processing landlord and tenant petitions in December 1982 and December 1983.

Attachments


Approved by:


Assistant City Manager,
Planning and Community Development

SECTION I

**TENANT PROTECTIONS
UNDER
SECTIONS 12 AND 15
OF
THE ORDINANCE**





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TENANT PROTECTIONS AND INDIVIDUAL RENT ADJUSTMENT
AND RENT WITHHOLDING PETITIONS

This portion of the report will define the tenant protections provided under Section 12 and Section 15 of the Rent Stabilization Ordinance. In addition, this report will discuss these protections and will present examples of noncompliance with these protections as well as identify the type of individual rent adjustment petition a tenant must file when seeking relief from violations of these provisions of the law. This section of the report will be divided into two parts; Part I - Section 12 - The Individual Rent Adjustment Process, and Part II - Section 15.a.(1) - Board authorized Rent Withholding Provisions.

Part I - Section 12 - The Individual Rent Adjustment Process.

Under the Ordinance, Section 12.c.(4),(5),(6), and (10), a tenant may seek relief through the individual rent adjustment process for the following reasons:

Section 12.c:

- (4) Increases or decreases in the number of tenants occupying the rental unit, living space, furniture, furnishings, equipment, or other housing services provided, or occupancy rules;
- (5) Substantial deterioration of the controlled rental unit other than as a result of normal wear and tear;
- (6) Failure on the part of the landlord to provide adequate housing services, or to comply substantially with applicable state rental housing laws, local housing, health and safety codes, or the rental agreement;
- (10) Whether or not the landlord has received rent in violation of the terms of this Ordinance or has otherwise failed to comply with the Ordinance.

The following is a brief overview of the provisions listed above:

- a. Increases or decreases in the number of tenants occupying the rental unit, living space, furniture, furnishings, equipment, or other housing services provided, or occupancy rules. (Section 12.c.(4)).

Under Section 12 of the Ordinance, a tenant living in housing covered under the law is entitled to receive the same level of living space and housing services provided when the unit was first rented.

For example, if a tenant rented an apartment with a parking space and a yard, and either the use of the parking space or the yard is taken away by the landlord, the law and Board regulations permit a tenant to file a petition for a reduction of rent to compensate for the loss of space or housing service.

If the number of tenants allowed to live in a unit is reduced, the tenants may also file a petition for a reduction of rent.

For example, if three tenants were actually occupying the unit in December 1979, and the landlord now makes it a policy that only two tenants may occupy the premises, the remaining tenants may petition the Board for a reduction of rent as a result of the landlord's new policy.

- b. A tenant is entitled to housing which is not substantially deteriorated. That is, the landlord is obligated to properly maintain the residential rental property. (Section 12.c.(5)).

For instance, if a ceiling in a rental unit has so deteriorated that water is leaking into a tenant's unit, and the tenant has notified the landlord in writing of the leak and has attempted to cooperate with the landlord in allowing repairmen access to repair the leak without results, the tenant may petition the Board for a reduction of rent to compensate for the impairment to the unit. If granted, the referenced reduction will last until the repair is made.

However, the tenant would not have the right to a reduction in rent if s/he wilfully caused the deterioration or if the deterioration was due to the normal wear and tear of the unit. Further, in this type of petition the tenant is required to provide the Board and the landlord with a report from the City of Berkeley Codes and Inspection Division documenting the substantial deterioration.

- c. A tenant is entitled to live in a unit where the landlord provides adequate services, complies with state and local housing, health and safety laws and complies with the terms of the rental agreement entered into between the landlord and the tenant. (Section 12.c.(6)).

In a situation where the landlord has agreed to provide garbage service for the unit and fails to do so, this is considered to be a violation of the rental agreement and also threatens the health and safety of the tenant. The tenant may file a petition for a reduction of rent for the period of time that the impairment exists because of the landlord's failure to provide services or noncompliance with state and local housing, health and safety laws.

- d. A tenant is entitled to be charged the correct rent for housing covered under the Ordinance. (Section 12.c.(10)).

If a landlord has illegally raised the rent by charging rent in excess of that allowed by the Board's Annual General Adjustment orders, without first petitioning for Board approval of the higher rent, the tenant may petition for a reduction of rent to the proper level. All excessive rent charges collected from the tenant by the landlord must be refunded.

Copies of Rent Stabilization Board Regulations 1269(B),(C),(D), 1270 and 1271 are included as attachments to this section of the report for informational purposes.¹ A copy of the Tenant Petition for Individual Rent Adjustment is also attached for your review.² The tenant petition is currently being revised

by the Program staff and the Individual Rent Adjustment Committee. A revised petition will be included in the May 22, 1984 report to the City Council.

Part II - Section 15.a.(1) - Board authorized Rent Withholding Provisions.

This portion of the report will address Section 15.a.(1) of the Ordinance which deals specifically with rent withholding that has been authorized by the Rent Stabilization Ordinance.

Section 15.a.(1) of the Ordinance states:

Section 15. REMEDIES.

a. **For Violation of Rent Ceilings or Failure to Register.** If a landlord fails to register in accordance with Section 8 of this Ordinance, or if a landlord demands, accepts, receives or retains any payment in excess of the maximum allowable rent permitted by this Ordinance, a tenant may take any or all of the following actions until compliance is achieved:

(1) A tenant may petition the Board for appropriate relief. If the Board, after the landlord has proper notice and after a hearing, determines that a landlord has wilfully and knowingly failed to register a rental unit covered by this Ordinance or violated the provisions of Sections 10, 11 and 12 of this Ordinance, the Board may authorize the tenant of such rental unit to withhold all or a portion of the rent for the unit until such time as the rental unit is brought into compliance with this Ordinance. After a rental unit is brought into compliance, the Board shall determine what portion, if any, of the withheld rent is owed to the landlord for the period in which the rental unit was not in compliance. Whether or not the Board allows such withholding, no landlord who has failed to comply with the Ordinance shall at any time increase rents for a rental unit until such unit is brought into compliance.

Under Section 15.a. of Berkeley's Rent Stabilization Ordinance, rental housing in Berkeley must be properly registered with the Rent Stabilization Board. If the landlord has knowingly and wilfully failed to file the required annual registration statements, failed to pay the required fees, and/or failed to properly complete the property registration forms, a tenant may petition the Board for authorization to withhold his or her payment of rent until the landlord has properly registered the property and paid the required fees.

If the Board determines after a hearing in the matter that the property is not properly registered, the Board will authorize rent withholding after giving a minimum of fifteen days' notice to the parties. This order will remain in effect until the property is properly registered.

Once the property is properly registered; that is, all fees/penalties have been paid and all forms have been completed, signed and submitted to the Board office; the Board will issue an order terminating Board authorized rent withholding, and will make a determination as to whether the tenant is entitled to retain any of the withheld rent. The amount of rent allowed to be retained, if any, is determined by how quickly the landlord complies with the registration requirements of the Ordinance.

For example, if the Board determines that the property is not properly registered because registration and late penalty fees have not been paid for the property, and an order is sent out by the Board on June 15, 1984 which authorizes rent withholding to begin on July 1, 1984 - if the landlord pays the required fees before July 1, 1984, the landlord will be entitled to

collect the July 1, 1984 rent and the tenant will not be authorized to retain any rent as a result of the landlord's compliance with the Ordinance.

Given the same circumstances, if the landlord does not pay the required fees until November 15, 1984, the tenant will be authorized to pay the December 1, 1984 rent, however, the tenant would be entitled under Regulation 1531 to permanently retain all rents which were authorized to be withheld from July 1, 1984 to November 15, 1984.

A copy of Regulation 1531³ is attached for your information as well as a Tenant Petition for Rent Withholding for Nonregistration.⁴

Other provisions of Section 15 of the Ordinance permit a tenant to withhold rent on his/her own or sue in court for certain violations of the Ordinance.

¹ Attachment 1. Board Regulations 1269, 1270 and 1271.

² Attachment 2. Tenant Petition for Individual Rent Adjustment.

³ Attachment 3. Board regulation 1531.

⁴ Attachment 4. Tenant Petition For Failure to Register.

1268. Recent Rent Changes.

(A) Purpose. The purpose of this Section is to provide an additional one-time rent ceiling adjustment for units for which there have been no or minimal rent increases in recent years. The 10% figure takes into account general increased costs to landlords in the 1976-1979 period, and the fact that landlords generally realized substantial property tax savings as a result of Proposition 13.

(B) Additional Rent Increase. In addition to any rent ceiling adjustment pursuant to Sections 1262-1267, and Sections 1269-1270, the rent ceiling for any unit may be further increased by the dollar difference between 10% of the rent in effect on January 1, 1976 and the dollar amount that the rent was increased for that unit between January 1, 1976 and December 31, 1979, if:

(1) the landlord has complied with Measure I, Ordinance 5212, and Measure D in all respects; and

(2) the tenant's use of and benefit from the unit has not been impaired by a reduction in housing services or living space, or by other factors, subsequent to January 1, 1976; and

(3) the rent in effect on December 31, 1979, was no more than 10% greater than the rent in effect on January 1, 1976.

(C) Rent ceiling adjustments pursuant to this section may only be made one time for any unit.

1269. Changes in Space or Services; Substantial Deterioration.

(A) Increases in Space or Services. Rent ceilings shall be adjusted upward, pursuant to the provisions of Sections 1262-1267, for increases in the living space or housing services (including furniture, furnishings, or equipment) provided for a unit, where such increases in space or services result in unavoidable increases in actual expenses, and where such increases in space or services are either unavoidable or are provided by the landlord in good faith to primarily benefit the tenant(s).

(B) Decreases in Space or Services. Rent ceilings shall be adjusted downward for decreases in living space or housing services provided for a unit, by an amount equal to the rent ceiling in effect, multiplied by the percentage by which the tenant's use of and benefit from the unit has been impaired by the reduction in living space or housing services.

(C) Substantial Deterioration. Rent ceilings shall be adjusted downward for any substantial deterioration in a rental unit or property, other than as a result of either normal wear and tear or wilful destruction of the property by the tenant, by an amount equal to the rent ceiling in effect, multiplied by the percentage by which the tenant's use of and benefit from the unit has been impaired by the deterioration.

(D) Failure to Provide Adequate Services. Rent ceilings shall be adjusted downward for any failure by the landlord to provide adequate housing services, or to comply substantially with applicable state rental housing laws, local housing, health and safety codes, or the rental agreement. The amount of the downward adjustment shall be equal to the rent ceiling in effect, multiplied by the percentage by which the tenant's use of and benefit from the unit has been impaired by the landlord's failure or non-compliance.

1269. Changes in Space or Services; Substantial Deterioration. (cont.)

(E) Termination of Rent Reductions. Any rent ceiling reductions pursuant to this Section shall terminate on the date of the first rent payment due after adequate proof has been submitted to the Board that the reason for which the reduction was granted no longer exists.

(F) Past Reduction in Services.

(1) Rent ceilings may be temporarily reduced to compensate for any past decrease in living space or housing services provided, or substantial deterioration, or failure to provide adequate housing services, or to comply substantially with applicable state rental housing laws, local housing, health and safety codes, or the rental agreement, which occurred on or after June 29, 1980, and before the effective date of the rent ceiling reduction pursuant to this Section.

(2) The total dollar amount of the compensation pursuant to this subsection shall be equal to the rent ceiling in effect, multiplied by the percentage by which the tenant's use of and benefit from the unit has been impaired by any of the factors set forth in sub-section (1) above, multiplied by the period of time the impairment existed.

(3) The hearing examiner shall determine the temporary rent ceiling reduction pursuant to this subsection by prorating the total compensation over a reasonable period of time, not to exceed the period of time during which the impairment existed.

(G) Replacement Cost. In determining the amount of the downward rent adjustment by the percentage of impairment of use/benefit method pursuant to subsections (B), (C), (D), and (F), the hearing examiner may consider the reasonable replacement cost of the space, service or repair in question.

1270. Changes in Number of Tenants.

(A) Base Occupancy Level. The base occupancy level for a unit shall be the highest number of tenants allowed by any lease or rental agreement for the unit, between June 1, 1979 and May 31, 1980, or the highest number of tenants actually occupying the unit, with the landlord's knowledge, as a principal residence, between June 1, 1979 and May 31, 1980, whichever is greater. If the necessary information is not available for the period between June 1, 1979 and May 31, 1980, the hearing examiner may use another appropriate period to determine the base occupancy level, or may determine any appropriate base occupancy level for the unit.

(B) Increase in Tenants.

(1) If the number of tenants allowed by the lease or rental agreement and actually occupying a rental unit as a principal residence has increased above the base occupancy level for that unit, then the rent ceiling for the unit shall be increased by 10% for each additional tenant above the base occupancy level, in addition to any rent ceiling adjustment pursuant to Sections 1262 - 1267.

(2) No rent ceiling increase for additional tenants, as provided for in this subsection, shall be granted:

(a) for any additional tenant who is a spouse, child, parent, grandparent, brother or sister of any of the original tenants, unless the original tenants agree in writing in a document other than the lease or rental agreement to the specific rent ceiling increase.

1270. Changes in Number of Tenants. (cont.)

(b) for temporary guests for whom the unit is not a principal place of residence;

(c) unless the increase in the number of tenants has taken place in the twelve months preceding the date of filing of the petition;

(d) if the increase in the number of tenants is objected to by the original tenants;

(e) unless the increase in the number of tenants complies with applicable codes and standards regarding occupancy levels for the unit;

(f) if the landlord is unable to adequately document the base occupancy level for the unit;

(g) if there was no rent in effect for the unit between June 1, 1979 and May 31, 1980.

(3) If the number of tenants actually occupying a rental unit as a principal residence decreases subsequent to any rent ceiling increase for additional tenants granted pursuant to this subsection, then the rent ceiling for that unit shall automatically decrease, by the amount of the rent ceiling increase that is no longer justified, as a result of the decrease in the number of tenants.

(C) Decrease in Number of Tenants Allowed.

(1) If any policies imposed by the landlord reduce the number of tenants allowed to occupy a rental unit as a principal residence from the base occupancy level for that unit, then the rental ceiling for that unit shall be decreased by an amount equal to the percentage by which the number of allowable tenants has been reduced.

(2) If there was no rent in effect for the unit between June 1, 1979 and May 31, 1980, the base occupancy level for the unit shall be established by the hearing examiner based on the pattern of occupancy levels for the unit in the twelve month period preceding the date of filing of the petition.

(3) For the purposes of this subsection, the maximum base occupancy level for a unit shall be the maximum number of tenants lawfully allowed to occupy that unit.

(4) Rent ceilings may be temporarily reduced to compensate for any past policies imposed by the landlord which reduced the number of tenants allowed to occupy a rental unit as a principal residence from the base occupancy level for the unit, which reduction occurred on or after June 29, 1980, and before the effective date of the rent ceiling reduction pursuant to this subsection. The total dollar amount of the compensation shall be equal to the percentage by which the number of allowable tenants has been reduced during that period, multiplied by the rent ceiling in effect, multiplied by the period of time during which that reduction was in effect. The hearing examiner shall determine the temporary rent ceiling reduction pursuant to this subsection by prorating the total compensation over a reasonable period of time (not to exceed the period of time the reduction in tenants existed).

1271. Overcharges and Other Violations.

(A) Overcharges. If the landlord has received rent in violation of Ordinance, on or after June 29, 1980, the landlord shall be ordered to refund the overcharge. Until the landlord has fully complied with the overcharge refund order, the rent ceiling for the affected unit shall be temporarily reduced to insure return of the overcharge, over an appropriate period of time (not to exceed the period of time during which the overcharge occurred), except as provided in subsection (B), and no upward individual rent adjustment shall be granted for the affected unit(s). Any overcharge refund shall be paid to the person or persons overcharged, except as provided in Subsection (B) below. For purposes of this Section, any receipt or retention of rent in violation of any order, rule or regulation of the Board shall be deemed to be in violation of the Ordinance.

(B) Overcharges from Former Tenants. If any of the rent overcharge was received from former tenant(s), the landlord shall make reasonable efforts to find the former tenant(s) and refund the overcharge. The landlord shall notify the Board in writing of the nature, extent, and result of those efforts within 60 days of the overcharge refund order.

If the landlord does not refund any past overcharge(s) to any former tenant(s) within 60 days, or has made reasonable but unsuccessful efforts to locate the former tenant(s), then the landlord shall be ordered to pay the overcharge over an appropriate period of time to a Housing Assistance Fund, which shall be used to benefit low and moderate income tenants in the City of Berkeley, and which shall be administered by the City of Berkeley. Until the landlord has fully complied with the overcharge refund or payment order, no upward individual rent adjustment shall be granted for the affected unit(s).

(C) Petition Fee. If the landlord has received and retained rent in violation of the Ordinance, or has failed to comply with the Ordinance or any rule, regulation or order of the Board, for any unit in a property for which he/she has failed an individual rent adjustment petition, and such failure or violation continues at the time of the filing of the petition, then the landlord shall not be entitled to recover any part of the petition fee from the tenants affected by the petition, notwithstanding the provision of Section 1247.

(D) Other Violations. If the landlord has failed to comply with the Ordinance or any rule or regulation of the Board in any way other than unlawful rent charges, the hearing examiner may make an appropriate order for compliance or other appropriate relief, and no upward rent adjustment shall take effect until the landlord complies with said order.

(E) Continuing Violations. No upward adjustment of an individual rent ceiling shall be authorized under this Chapter if the landlord:

(1) has continued to fail to comply, after order of the Board, with any provisions of the Ordinance and/or orders or regulations issued thereunder by the Board; or

(2) has failed to bring the rental unit into compliance with the implied warranty of habitability. This means that the living quarters shall be maintained in a habitable state. Among other problems materially affecting health and safety, lack of substantial compliance with those applicable building, housing and health code standards which materially affect health and safety, including, but not limited to, the standards set forth in Civil Code Section 1941.1, shall constitute noncompliance with the implied warranty of habitability.

CITY OF BERKELEY

Rent Stabilization Board
2180 Milvia St.,
2nd Floor
Berkeley, Calif. 94704

INSTRUCTION SHEET FOR TENANT PETITION FOR INDIVIDUAL RENT ADJUSTMENT

IMPORTANT: Please read this instruction sheet before completing the petition form! You should also refer to the Ordinance and the Board's regulations when applicable. (Copies of the Rent Stabilization Ordinance and the Board's regulations are available at the Board office.)

I. GENERAL EXPLANATION

Attached is a tenant petition for an individual rent adjustment. Every tenant and landlord has a right to apply for such an adjustment, under Section 12 of the Rent Stabilization Ordinance. However, before submitting an individual rent adjustment petition tenants should make certain their rental unit is not exempt from coverage by the Ordinance. See Section 5 of the Ordinance for exemptions.

In addition, tenants should only request an adjustment if they have reason to believe that special circumstances exist for their rental unit, such as those set forth in Section 12(c) of the Ordinance and in the Board's regulations (Sections 1269 through 1271). This will avoid unnecessary expense and effort.

Further, you should be aware that you have a right, under Section 15(a)(1) of the Ordinance, to petition the Board for authorization of partial or full rent withholding if your landlord has failed to register your rental unit, or you believe your rent is illegally high. Filing a petition to withhold rent rather than an individual adjustment petition may be less expensive and more appropriate in your case. Section 15 (a)(2) of the Ordinance allows tenants to withhold rent in such situations without Board authorization, but exercising that right may be risky. Exercising tenant rights under state law, such as repair and deduct, may be more appropriate in certain instances. Contact the Board staff for more information on tenant rights to withhold rent.

Tenants of units in the same building who wish to petition the Board should submit their individual petitions at the same time for a consolidated hearing. This will save both tenants and the Board unnecessary effort and expense. Whether or not petitions for units in the same building are submitted together, the Board may consolidate such petitions for the same hearing. (Section 12(b) (9) of the Ordinance and Section 1212 of the Regulations.)

Section 12(a) of the Ordinance states that:... "the Board or hearing examiner may refuse to hold a hearing and/or grant an individual rent ceiling adjustment for a rental unit if an individual hearing has been held and decision made with regard to the rent ceiling for such unit within the previous six months".

Filing Fee

The filing fee for each individual rent adjustment petition is to be paid in two installments. (Regulation 1203) BOTH INSTALLMENTS OF THE FILING FEE, ONCE PAID, ARE NON-REFUNDABLE!

The first installment, to be paid at the time the completed petition is submitted to the Board, is \$40.00 for the first unit and, if the petition is for more than one unit in the same building, \$20.00 for each additional unit.

The second installment of the filing fee, to be paid at least four business days prior to the scheduled date of the hearing, is \$80.00 for the first unit and, if the Board has consolidated for hearing requests for individual rent ceiling adjustments for multiple units in the same building, \$40.00 for each additional unit.

These filing fees are based on the Board's current estimate of the expenses of processing the petition.

If agreement is reached on the adjustment prior to the hearing, the second installment of the filing fee may be waived (Regulations 1203(B) and 1232).

When an agreement is reached, the filing fee will be evenly split between the parties. If the case is decided after a hearing, the hearing examiner has authority to allocate the filing fee fairly between the parties. (Regulation 1247)

If you cannot afford to pay the required filing fee, you may be eligible for a waiver or reduction based on economic hardship (Regulation 1204). A separate waiver application is available at the Board office.

The Petition Process

After the petition is submitted, it will be reviewed by Board staff to make sure it contains all the necessary information. You will be notified as soon as possible if it is incomplete and any further information is necessary. You will then be allowed to either provide the additional information or explain why you are not able to. A petition will only be considered as properly filed when it has been submitted in substantially complete form and the required fee has been paid. ("Substantially complete" means that all material information required on the petition form has been provided.) (See Regulation 1207.)

A hearing will be scheduled on your petition, and you will be notified of the date in advance (Regulation 1223). Tenants and landlords may also be contacted by the Board staff in an effort to reach agreement on the adjustment prior to the hearing (Regulation 1232). Tenants and landlords are encouraged by the Board to reach agreement prior to the hearing. The second installment of the filing fee may be waived if such agreement is reached (Regulation 1203(B)).

At the hearing, which will be before a hearing examiner, all parties have a right to assistance from attorneys, legal workers, tenant organization representatives, or any other persons they choose (Regulation 1234). Your petition will be evaluated based on rules and regulations adopted by the Board in accordance with the criteria in Section 12 of the Ordinance. (See Regulations 1261-1275.) After you receive the hearing examiner's

decision, you can appeal to the Rent Board if you are not satisfied (Regulation 1242).

Section 12(b)(12) of the Ordinance provides that "final Board action on any individual rent adjustment petition (shall be taken) within one hundred and twenty (120) days following the date of filing of the individual rent ceiling adjustment petition, unless the conduct of the petitioner or other good cause is responsible for the delay." (See also Regulation 1243.)

Final Board decisions may be appealed to the courts.

Confidentiality

Applications for waiver of filing fees due to economic hardship shall be confidential even to the opposing party. Otherwise, all documents filed in connection with an individual rent adjustment proceeding shall be public records, unless a party to the proceeding receives a determination by the Board or Board staff that a particular document shall be confidential under its rules. In most cases, documents determined to be confidential will be available for inspection to the opposing party but not to the general public (Regulation 1213).

When Rent Decreases Are Effective

Any rent decrease allowed will take effect on the date of the next regularly scheduled rent payment, but no later than 30 days after the date of the decision (Regulation 1246).

II. HOW TO COMPLETED THE PETITION:

In completing the petition form provide all the information that is known. Attach additional sheets, if necessary, to answer fully. If you have any questions, please contact the Rent Board. You should also consider seeking assistance from one of the local tenant counseling services.

Part I

- (A) Include the name of each tenant living in the rental unit who is petitioning the Board.
- (B) Provide the name, address and phone of your landlord and the managing agent (or other landlord representative) for your building. If you do not know this information, please give the name, address, and phone number of the individual or company to whom you pay your rent.
- (C) As noted earlier in the instruction sheet, tenants of units in the same building petitioning the Board should submit their petitions together for a consolidated hearing. This will save both tenants and the Board unnecessary expense and effort.
- (D) If you are having or going to have the assistance of a representative during the individual rent adjustment process, please list that person in this section.

- (E and F) This information helps to determine whether the landlord complied with past Berkeley rent regulations and whether your present rent is legal. The rent in effect for a particular date is the rent actually charged for the date. For example, if a rent of \$300 per month was charged and paid May 1, 1980 for the entire month of May, the rent in effect on May 31, 1980 would be \$300. This would be true even if the tenant had agreed to pay a different new rent beginning June 1, 1980 and had pre-paid the new rent in May.
- (E,G,and H) Increases in security deposits or other charges by the landlord were regulated by the Measure I, Measure I's extension (Ordinance 5212-N.S.), and are now regulated by the Rent Stabilization Ordinance. Information on any increases in these deposits or charges, including last month's rent prepayments, will help the Board staff determine whether such increases were allowed under the law. (See Section 4(e) of the Ordinance.)
- (I) If you occupied the unit after June 6, 1978, the name and address of any previous tenant would be particularly helpful. This information would enable the Board staff to check whether the landlord passed on the Proposition 13 property tax savings (as required by Measure I), and did not increase the rent illegally before your occupancy of the unit.

Part II.

- (A) Indicate the amount of rent decrease being requested. Note that Regulation 1247, which authorizes the hearing examiner to allocate the petition fee fairly between the parties, directs the examiner to consider when doing so the relationship between the amount of rent adjustment requested in the petition or other offers made by the parties and the final amount of the adjustment granted.
- (B) Check each box which sets forth a reason for a rent decrease applicable to your unit.

Box 1. Check this box if the landlord has removed furniture from a furnished apartment, told you that you may no longer have parking spaces, or in any other way reduced the housing services originally paid for in the rent payment. (See Section 4(c) of the Ordinance and Regulation 1259(B) for more details.)

Box 2. Check this box if your rental unit has been allowed to deteriorate and fall into disrepair.

Box 3. Check this box if there are serious repair problems in your home. For information on housing code violations, contact the City of Berkeley's Housing Complaint Section (644-6180).

Box 4. Check this box if the landlord has reduced the number of tenants allowed to occupy your unit, from the number allowed, or actually present with the landlord's knowledge, in the year prior to May 31, 1980. See Regulation 1270(C) for more details.

Box 5. Check this box if you believe your landlord has illegally raised rents for your unit, or has violated some other provision of the Rent Stabilization Ordinance. For a detailed discussion of how to tell if the rents for your unit have been increased illegally, see below in the instructions, Part II-C(5).

Box 6. Check this box if you have other reasons to believe your rent ceiling should be decreased. (See Section 12 of the Ordinance for possible reasons to justify a rent ceiling adjustment.)

- (C) Supporting Information. The more fully your request for a rent adjustment is explained and documented, the greater the chance such an adjustment will be granted. This section is where you should give a full explanation of your ground(s) for a decrease. Tenants should also note that landlords have the right under the Ordinance to present evidence to directly counter the tenants' claims, as well as to present evidence of cost increases or give other reasons they believe justify a rent increase.

1,2,and 3: Please provide concise information concerning the decrease in space or services, substantial deterioration, or failure to provide adequate services or comply with applicable codes, laws, or the rental agreement.

If you are asking for a rent decrease based on more than one set of facts, please provide all of the information requested in (a) through (g) for each set of facts. Attach separate sheets if necessary. If the same set of facts supports more than one ground for a rent decrease, you need only explain those facts one time, and refer back to that explanation later where appropriate.

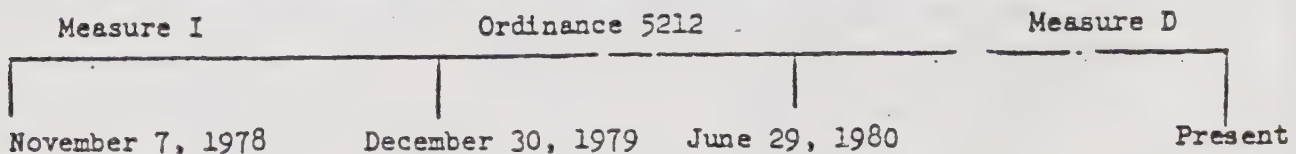
In subsection(f) of each category, estimate as best you can the effect of the decrease, deterioration, or failure on your use of and benefit from the unit. This will be used by the hearing examiner to determine the amount of rent reduction, if any. This estimate should be of the percentage by which you believe your use of and benefit from your premises has been reduced. If you believe, for instance, that the conditions or problems have reduced your use of and benefit from the unit by one-half, you should put 50% in this portion of the petition.

In subsection (g) of each category, estimate the amount of money it would cost you to replace or repair the problem. For example, if your landlord has withdrawn your parking rights, you could put down the amount of money that it would cost you to rent parking elsewhere. Or, if the landlord has failed to repair the bathroom plumbing you could estimate the cost of repairing the problem.

4. Regulation 1270(C) permits you to seek a rent reduction if the landlord has recently restricted the number of allowable tenants below the "base occupancy level". The "base occupancy level" is the highest number of tenants allowed by the rental agreement or occupying the unit with the landlord's knowledge between June 1,1979 and May 31, 1980. Fill out the requested information only for those units for which you seek a rent decrease.

5. Illegally high rent. Question 5(a) asks for the basis for your belief that your current rent is illegally high. The answer to this lies in an

understanding of the history of rent regulation in Berkeley. Berkeley has had some form of rent regulation since November 1978. Below are descriptions of how each of the present and previous rent laws worked. On a time line, Berkeley's rent stabilization laws look like this.



Measure D, the Rent Stabilization and Good Cause for Eviction Ordinance, has been in effect since June 29, 1980. Under the law, no rent increases are allowed without the approval of the Rent Stabilization Board. There are two ways legal rent increases can be granted; either through a city-wide rent increase or through individual adjustment petitions to the Board. The Board has approved a city-wide increase of 5% for all registered units, and 6.2% when the landlord pays for heat. If a landlord asks the Rent Stabilization Board for an individual rent adjustment, the tenants will be notified and may support or oppose the rent increase request. Remember, any rent increases given without Rent Stabilization Board approval are ILLEGAL. If you believe you have received an illegal rent increase since June 29, 1980, check Box (1) in Question 5(a).

From December 31, 1979 until June 29, 1980, a temporary rent stabilization law was in effect (Ordinance 5212-N.S.). That law allowed landlords to raise rents to cover increased maintenance and operating costs if the increase was documented and explained in writing to the tenants. However, regardless of the landlord's cost increases, rent increases were limited to no more than 5%. If you believe your rent was illegally raised between December 31, 1979 and June 29, 1980 because the landlord raised the rent more than 5% or did not explain the increased costs to the tenant, please check Box (2) in Question 5(a).

From November 7, 1978 until December 31, 1979, Measure I, the Renter Property Tax Relief Ordinance, was in effect. Measure I required landlords to share the property tax savings from Proposition 13 with tenants by returning 80% of the tax savings to tenants through lowered rents. (Section 5(a)) However, landlords were allowed to increase rents to cover increased costs, to the extent that they exceeded the 20% of the Proposition 13 tax savings which the landlord was allowed to keep. To do so, the landlord was required to give to the tenant, at least 30 days prior to charging any rent increase, a clear written financial statement explaining and documenting the increased costs which necessitated the rent increase. If your rent was never reduced under Measure I or you received illegal rent increases, please check box (3) in question 5(a).

For your information, copies of Measure D, Measure I, and Ordinance 5212-N.S. are available at the Rent Board office. Please note: You need not have been a tenant in the apartment, house, flat, or room (rental unit) when the rent should have been reduced or the illegal rent increase took place, as long as you can show that the rent is now illegally high because the landlord did not comply with any of the present or previous rent laws.

The chart in Section 5(b) asks for a history of monthly rent demanded or received for the units for which a rent adjustment is being requested. Give the most complete information you can. Note that the chart requests information concerning amounts "demanded" and amounts "received". The landlord might have requested more than he/she actually got from the tenant. If so, please clearly indicate both amounts. Attach an additional sheet if necessary

In Section 5(d), please provide a complete explanation of the violations alleged in (a) above. For example, if you checked (a)(2) alleging a violation of Ordinance 5212 on the basis that the rent increase exceeded 5% or was levied without proper documentation, explain those grounds here.

Don't forget to complete and sign the declaration, under penalty of perjury, before you submit the petition form.

When you have completed the petition form, submit to the Board the original, an extra copy, a stamped envelope, and a filled-out address label (provided by the Board) marked with the name and address of your landlord (or managing agent). The Board, as required by Section 12(b) (2) of the Ordinance, will mail the copy of your petition to your landlord (or managing agent).

RENT STABILIZATION BOARD
1414 WALNUT STREET
BERKELEY, CALIFORNIA 94709
(415) 644-6124

TRA Petition No. _____

Date Filed: _____

TENANT PETITION FOR INDIVIDUAL RENT CEILING ADJUSTMENT

IMPORTANT: Please read the instruction sheet before completing the Petition Form. Attach additional sheets, if necessary, to answer fully.

Part I

A. Tenant(s) - Petitioner (s):

<u>NAME</u>	<u>STREET ADDRESS</u>	<u>UNIT NO.</u>	<u>ZIP</u>	<u>PHONE</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Date (approximate of tenant(s) initial occupancy of unit (if known) _____
(Give earliest date any of current tenants occupied unit.)

B. Landlord and managing agent (or other landlord representative):

<u>NAME & POSITION</u>	<u>PRESENT ADDRESS</u> <u>Street, City, State, Zip</u>	<u>PHONE</u>
_____	_____	_____
_____	_____	_____

C. Petition Consolidation:

Number of units in building _____

Is this petition being submitted for a consolidated hearing together with other petitions from tenants living in units in the same building?

YES ☐ NO ☐ If yes, number of units to be consolidated: _____

List the name(s), address, and telephone number of any authorized representative (recognized tenant union member, attorney, accountant, etc.):

NAME	ADDRESS Street, City, State	ZIP	PHONE
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

E. Present Rent and Security Deposits:

Rent in Effect on Date Petition is Submitted: \$ _____ per _____

Present Security Deposits (including last month's rent pre-payment): \$ _____. Other Charges by Landlord? YES ☐ NO ☐
If Yes, explain: _____

F. Rent Increases or Decreases Since June 6, 1978:

Effective Date	Rent Increase	Rent Decrease	Rent in Effect After Increase/Decrease
_____	\$ ____ per _____	\$ ____ per _____	\$ ____ per _____
_____	\$ ____ per _____	\$ ____ per _____	\$ ____ per _____
_____	\$ ____ per _____	\$ ____ per _____	\$ ____ per _____

G. Security Deposit Increases or Decreases Since June 6, 1978:

Effective Date	Security Deposit Increase	Security Deposit Decrease	Security Deposit After Increase/Decrease
_____	\$ _____	\$ _____	\$ _____
_____	\$ _____	\$ _____	\$ _____
_____	\$ _____	\$ _____	\$ _____

H. Increases or Decreases in Other Charges by Landlord:

Have there been any increases or decreases in other charges since June 6, 1978 in addition to the changes in the monthly rent or the security deposit?

YES ☐ NO ☐ . If yes, explain: _____

... (If known):

<u>NAME</u>	<u>PRESENT ADDRESS</u> <u>Street, City, State</u>	<u>ZIP</u>	<u>PHONE</u>	<u>DATES OF</u> <u>OCCUPANCY</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Part II

A. Rent Ceiling Adjustment Requested

<u>Present Rent</u>	<u>Amount of Rent Decrease Requested</u>	<u>Proposed Rent</u>
_____	_____	_____

B. Reason(s) for Rent Adjustment Requested

Please check one (or more) of the boxes below that explain why you feel the rent should be reduced and provide the requested supporting information where possible in Part II-C.

(ALL REFERENCES ARE TO SECTIONS OF THE BOARD'S REGULATIONS, AVAILABLE AT THE BOARD OFFICE).

- ☐ 1. Decreases in the living space or other housing services (Regulation 1269(b)).
- ☐ 2. Substantial deterioration of the unit (Regulation 1269 (C)).
- ☐ 3. Failure on the part of the landlord to provide adequate services or to comply substantially with applicable state rental housing laws, local housing, health and safety codes, or the rental agreement (Regulation 1269(D)).
- ☐ 4. Decreases in the number of allowable tenants (Regulation 1270(C)).
- ☐ 5. The landlord has received illegally high rent, in violation of Measure D (the Rent Stabilization Ordinance) or has otherwise failed to comply with the Ordinance (Regulation 1271).
- ☐ 6. Other

C. Supporting Information (If exact information is not available, give your best estimate.)

- ☐ I. If you checked Box 1 in Part II-B, please check this box and provide the following information:

(a) Nature of decrease in space or services: _____

- (b) Date each decrease began: _____
- (c) Date landlord or agent knew or should have known of each decrease: _____
- (d) Has decrease ended? Yes ☐ No ☐. If yes give date: _____
- (e) How many months did the decrease last? _____
- (f) Estimated extent to which your use of and benefit from your rental unit has been impaired by the decrease in space or services (in percent): _____%
- (g) Estimated replacement cost to remedy the decrease in services: \$ _____

☐ 2. If you checked Box 2 in Part II-B, please check this box and provide the following information:

- (a) Nature of the substantial deterioration of your unit:

- (b) Date the deterioration began or became apparent: _____
- (c) Date landlord or agent knew or should have known about the deterioration: _____
- (d) Has the deterioration been repaired? Yes ☐ No ☐
If yes, give date repaired: _____
- (e) How many months did the deterioration last? _____
- (f) Estimated extent to which your rental unit has been impaired by the deterioration (in percent): _____%
- (g) Estimated replacement cost to remedy the deterioration: \$ _____

☐ 3. If you checked Box 3 in Part II-B, please check this box, and provide the following information:

- (a) Nature of the landlord's failure to provide adequate services or to comply substantially with applicable state rental housing laws, local housing, health and safety codes, or the rental agreement:

- (b) Date the failure began: _____
- (c) Date landlord or agent knew or should have known about the failure: _____
- (d) Has the failure ended? Yes ☐ No ☐ . If yes give date _____
- (e) How many months did the failure last? _____
- (f) Estimated extent to which your use of and benefit from your rental unit has been impaired by the failure: _____ &
- (g) Estimated replacement cost to remedy the failure: \$ _____

4. If you checked Box 4 in Part II-B please check this box and provide the following information:

Indicate below the highest number of tenants allowed by any lease or rental agreement between June 1, 1979 and May 31, 1980, and currently, for each unit for which a rent decrease is requested. Also indicate the highest number of tenants actually occupying each such unit, with the landlord's or manager's knowledge, as a principal residence, between June 1, 1979 and May 31, 1980 and currently.

Attach a copy of all leases and rental agreements (if available) for each unit listed, for the period covering June 1, 1979 through May 31, 1980, and the current period.

Unit Number	June 1, 1979 to May 31, 1980		Currently	
	No. allowed	No. occupying	No. allowed	No. occupying

- ☐ 5. If you checked Box 5 in Part II-B, please check this box, and provide the following information:

(a) The landlord has committed the following violations(s):

- ☐ (1) The landlord has increased the rent since June 29, 1980 in violation of Measure D, the Rent Stabilization Ordinance.
- ☐ (2) The landlord increased the rent between December 31, 1979 and June 29, 1980 in violation of Ordinance 5212.
- ☐ (3) The landlord increased the rent between November 1978 and December 30, 1979 in violation of Measure I.

(b) Provide the following monthly rent level information for each unit in the property for which a rent decrease is being requested due to claimed rent overcharges. For the current rent indicate the rent level in effect on the date the petition is submitted to the Board.

MONTHLY RENTS DEMANDED OR RECEIVED

UNIT Number	6-6-78	12-1-78	1-1-79	12-31-79	5-31-80	CURRENT

- (c) Provide the following summary of overcharges for each unit in the property for which a rent decrease is being requested.

UNIT NUMBER	AMT OF MONTHLY RENT DEMANDED/ RECEIVED	AMT OF LAWFUL MONTHLY RENT	AMT OF OVERCHARGE PER MONTH	DATES OF OVERCHARGE FROM-TO

- (d) Explain fully the nature of the landlord's violation(s) checked in (a) above: _____

- ☐ 6. If you checked Box 6 in Part II-B, please check this box and fully explain the nature and reasons for your "other" grounds for a rent decrease:

PART III. CERTIFICATION

Under penalty of perjury, I hereby certify that the foregoing information is true and correct to the best of my knowledge and belief.

Signature of Petitioner _____ Date _____

Name (Print or Type) _____

Address _____

(If more than one petitioner, other petitioners should sign and print their name(s) below.)

Signature _____ NAME _____

Signature _____ NAME _____

Signature _____ Name _____

1531. Right to Retain Withheld Rent.

If the landlord fails to register on or before the effective date of the order, the tenant(s) may retain rent withheld pursuant to this subchapter according to the following subsections:

(A) If the landlord registers within 60 days of the effective date of the rent withholding order, the tenant(s) may keep 50% of the rent withheld pursuant to the order.

(B) If the landlord has not registered within 60 days of the effective date of the rent withholding order, the tenant(s) may keep all of the rent withheld pursuant to the order to the date on which the landlord registers.

(Effective Date: 12/10/80 (formerly numbered 1512); Recodified: 6/10/81; latest revisions adopted 7/13/83).

INSTRUCTION SHEET
TENANT RENT WITHHOLDING FOR NON-REGISTRATION

ATTACHMENT 4

I. INTRODUCTION

The Rent Stabilization and Eviction for Good Cause Ordinance requires every landlord of units covered by the Ordinance to file a rent registration statement with the Rent Stabilization Board and pay a fee of \$30.00 per unit per year to fund the Board's operation. September 1, 1982 was the deadline for landlords to file the registration and pay the fee. Landlords who register after this date must pay a higher penalty fee of \$100 per unit every 60 days.

The Ordinance (Section 15a(1)) allows tenants to request that the Board authorize them to withhold their rent if their landlord has not registered their units. (Note that tenants may also withhold their rent for landlord's noncompliance without Board authorization under 14(a)(2) of the Ordinance).

II. PROCEDURE FOR OBTAINING AUTHORIZATION

1. Ask the Rent Board staff whether your unit is properly registered.
2. If not, fill out the attached self explanatory petition (no fee). Please note that all tenant/petitioners should fill in the declaration at the bottom of the form.
3. File the petition with the Board by mailing it or bringing it by the Board's office 2180 Milvia St., 2nd Floor. The Board may refuse to accept your petition if it is improperly filled out or if the landlord has already properly registered.
4. The Board will schedule a hearing on your petition within 45 days after it is filed and provide you with written notice of the time and place of the hearing at least 10 days prior to the scheduled date. The hearing will be held before the Rent Stabilization Board and will be informal and brief. Both the tenant and the landlord will have an opportunity to state their positions. If the landlord properly registers your unit, the petition will be dismissed.

The Board will notify both the tenant and the landlord of its decision. If the Board finds that the landlord has knowingly refused to register, they will authorize you to withhold all of your rent beginning with the next rent payment. Until notified by the Board, you should not pay and rent to the landlord but, you should not spend it. If the landlord still refuses to register within one business day after the Board's decision, or before the next regularly scheduled rent payment, you will be entitled to retain at least 50% of the total rent that you are withholding.

Should you have any questions about the authorization process, please contact Rachel Richman or Joyce Spikes of the Rent Stabilization Board staff, 644-6128 or 644-6129

RENT STABILIZATION BOARD
2180 Milvia Street
Berkeley, California 94704

Date Filed: _____

Petition No. _____

TENANT PETITION FOR RENT WITHHOLDING FOR FAILURE TO REGISTER

A. Tenant(s)/Petitioner(s): Please print or type. Attach additional sheet if necessary.

NAME

STREET ADDRESS

UNIT NO.

ZIP

DAY RENT DUE*

*Day Rent Due means the day your rent is due each month. If paid by the week or other period, leave blank.

B. Landlord or managing agent or other landlord representative. (If your rent is not paid to the owner of the property, give the name and address of the party to whom rent is paid in addition to the name and address of the owner.):

NAME (Identify whether
landlord or agent)

STREET ADDRESS

CITY

STATE

ZIP

PHONE

C. The reasons for this petition for authorization to withhold rent are:

1. The landlord has not submitted a registration form to the Rent Board.
2. The landlord has not paid the required registration fee (including late fees) for the property.
3. The landlord has submitted an incomplete registration form to the Rent Board.
4. The landlord has not registered or paid fees because he/she claims to be exempt from requirements of the Rent Stabilization Ordinance and I/we wish to contest the claim.

D. Exemption Information:

1. Does your landlord live in the building? _____
If your landlord lives in the building, does the building have 4 units or less? _____
Does your landlord share kitchen or bath facilities with tenants? _____
2. Are you under Section 8 or Section 237 (Federally subsidized housing). _____

E. You may want to include below any additional facts that support this petition for rent withholding, particularly if your landlord is claiming to be exempt under Section 5 of the Ordinance.

I declare under penalty of perjury that the above information is true and correct to the best of my knowledge and belief. Date: _____

Signature of Petitioner(s) (all)

Name (print)

Phone

SECTION II

EVICTIIONS

IN BERKELEY



This section of the report will provide information relative the eviction control provisions contained in Section 13 of the Rent Stabilization Ordinance.

This section which also speaks to tenant protections under the Ordinance will be presented in four parts.

This portion of the report will provide information regarding the number of eviction notices and unlawful actions that have been processed by the Rent Stabilization Program Public Information Unit since November 1982.

Also included in this section are three charts which provide the following information:

- 1) The legal Causes for eviction under the Rent Stabilization Ordinance;
- 2) A Summary of the Eviction Process
- 3)● A checklist of the requirements that must be met before a tenant may be legally evicted.
 - Measures prohitod when evicting tenants.
 - Retaliatory provisions of the Ordinance as set forth in Section 14 of the Ordinance.

STATISTICAL REPORT ON
PROCESSING EVICTION NOTICES
AND UNLAWFUL DETAINER
ACTIONS SINCE NOVEMBER 1982

The Public Information Unit processes all eviction notices (Three-Day Notices, 30-Day Notices and Summons and Complaints for Unlawful Detainer) copies that landlords provide the Board, in accordance with the provisions of Measure G. Any Eviction Notice served on a tenant in rental units covered by the Rent Stabilization Ordinance, must meet the requirements of Section 13 of the Ordinance and state 'good cause.' Additionally, the notice must be written as outlined in Measure G and/or the Regulations. All landlords (agents) and tenants receive correspondence from the Board, indicating the Board's response to the action.

Listed below is a breakdown of the listed causes that were submitted; the number and reasons why the notices were determined to be improper.

REASONS WITH CAUSE

1.	Non-Payment of Rent	478	(58%)
2.	Violation of Rental Agreement	24	(3%)
3.	Substantial Damages	20	(2%)
4.	New Rental Agreement Refusal	0	(-)
5.	Disorderly Conduct	17	(2%)
6.	Refuse landlord access	7	(1%)
7.	Substantial Repair	18	(2%)
8.	Demolish Unit	0	(-)
9.	Recover Possession/Relative	36	(4%)
10.	Owner-Occupancy	79	(10%)
11.	Temporary Rental	18	(2%)

IMPROPER/INVALID NOTICES

No Good Cause	43	(5%)
Improper Notice	43	(5%)
Not Registered	37	(5%)
TOTAL	820	(99%)

LEGAL REASONS FOR EVICTION

Berkeley's Rent Stabilization and Eviction for Good Cause Ordinance explicitly describes the reasons for which a tenant may be evicted in Berkeley. Only in the event that one of the following eleven conditions exists may a tenant be legally evicted.

1. The tenant fails to pay the rent to which the owner is legally entitled to under the Rent Law (except in the case of rent which is being legally withheld).
2. The tenant fails to comply with the terms of the rental agreement after being requested to do so in writing.
3. The tenant causes or allows substantial deterioration of the rental unit, and then refuses to pay for or make sufficient repairs after being requested to do so in writing.
4. The tenant refuses to sign a new lease that is substantially the same as an expired one.
5. The tenant, after receiving written notice to cease, continues to be so noisy and disruptive so as to disturb the peace and quiet of other tenants and residents.
6. The tenant refuses to allow the owner access to the rental unit for the purposes of showing, inspecting, or making repairs. The owner must first give 24 hours notice of intent to enter except in an emergency situation.
7. A tenant may be evicted from a rental unit if it is in need of repairs which cannot be made while the tenant resides there. In this case, before giving notice to the tenant to leave, the owner must first have obtained all necessary permits. Furthermore, this work must be necessary to bring the unit into compliance with the Housing Code. If the owner has other vacant units in Berkeley, they must be offered to the tenant on a temporary (see #11) or permanent basis. Once the repairs have been made, the tenant must be given the first option to re-occupy the rental unit.
8. The owner has received a permit to demolish the unit.
9. The owner, the owner's spouse, parents or children wish to occupy the unit, and there has been no comparable unit available to them in the 90 days before the tenant moves out. An owner who evicts a tenant for this reason must hold at least a 50% interest in the property.
10. A lessor wishes to move back into a sub-leased unit as permitted in the rental agreement with the current tenant(s).
11. A tenant refuses to move out of temporary housing offered by the owner after repairs being done on the tenant's prior unit have been completed.

THE EVICTION PROCESS

Eviction is a complex legal process. Each step must be followed carefully. The time limits imposed by the law are critical. A tenant who ignores the time limits in a three or thirty day notice, or fails to respond within five days to a Summons and Complaint, can lose his/her rental unit. Once a tenant has defaulted, there is very little legal recourse to stop an eviction action. Here is a brief flow chart description of the eviction process.

EVICTION NOTICE

The rental property owner gives the tenant a three or thirty day notice to leave (or in some cases, to pay rent or comply with the rental agreement). Counting starts the day after the written notice is received by the tenant, and includes weekdays and holidays. If the last day of the notice falls on a Saturday, Sunday or holiday, the tenant has until the next business day to respond.

TENANT OPPOSES THE EVICTION

A tenant who opposes an eviction should get help from an attorney or a legal services organization.

TENANT GIVES UP RENTAL UNIT

The tenant moves within the time limit given in the notice.

RENTAL PROPERTY OWNER FILES COMPLAINT WITH COURT

After the three or thirty day notice expires, the owner may file papers with the court requesting that the eviction action continue. These papers are called a Summons and Complaint for Unlawful Detainer.

COURT ISSUES SUMMONS AND COMPLAINT

The court issues to the tenant a copy of the Unlawful Detainer. The tenant has five days to respond in writing to the court.

TENANT FILES RESPONSE

Tenant files a response to the court within five days.

TRIAL

A date is set for a hearing, either before a Judge, or a Judge and Jury. Both tenant and owner appear in court to present their cases.

RENTAL PROPERTY OWNER PREVAILS

The tenant must leave the unit.

COURT ISSUES WRIT OF EXECUTION

The tenant may be ordered to pay back rent (if any is due) plus court costs as required by the rental agreement. The court will order the Sheriff to evict the tenant.

TENANT PREVAILS

The tenant stays in his/her home. Owner pays court costs if so required by the rental agreement.

EVICTION

The Sheriff serves a notice on the tenant to move within five days. If the tenant does not move, the Sheriff will escort the tenant from the property. The tenant may not return to the property.

EVICTIION CHECKLIST

In Berkeley, there are certain requirements that must be met before a tenant may be legally evicted.

- The property must be registered with the Rent Stabilization Board; all fees must be paid, and the registration forms must be complete.
- The owner must be in compliance with all aspects of the Rent Law; including, charging rents that do not exceed the maximum allowable level.
- The eviction must be for one of the legal reasons listed in this brochure.
- The owner must allege compliance with Sections 8 and 10 of the Rent Law (registration and legal rent levels) for all covered units on the property and compliance with the Warranty of Habitability (no serious repair problems).
- A copy of all eviction notices must be filed with the Rent Stabilization Board within ten days after it is given to the tenant(s).

IT IS ILLEGAL TO:

- Force a tenant to move from the property without a court order.
- Harass or threaten a tenant.
- Remove doors, windows, change the locks or remove a tenant's property from the rental unit without following the necessary legal procedures.
- Cut off or deny a tenant use of utilities to force a tenant to move.
- Retaliate against a tenant who requests necessary repairs or who files a complaint with any government agency or who uses his/her rights under the Rent Law or other laws.

State and local law is very specific regarding the procedural steps a rental property owner must follow in an eviction. Each step must be followed regardless of how the tenancy was created, or if the owner believes that there is good cause for eviction. If a rental property owner attempts to evict a tenant in any of the ways described above, the tenant should immediately contact an attorney, housing counselor or the Rent Stabilization Program.

RETALIATION PROHIBITED

It is illegal for a rental property owner to retaliate against a tenant who uses his/her rights under the Rent Stabilization Law. If actions against the tenant occur within six months after the tenant has used these rights, the actions of the owner are presumed to be retaliatory and illegal. It is incumbent upon the owner to show that the action was not retaliatory. Furthermore, claims of retaliation may be raised as a defense in an eviction case; regardless of the amount of time that has elapsed between the tenant's assertion of her/his rights and the alleged act of retaliation. Retaliation includes harassment, any attempt to reduce services or demands that a tenant move.

PENALTIES

Knowing and willful violation of the eviction law is a serious offense. Tenants who are illegally evicted may sue in court for damages of \$750 or three times the actual damages, whichever is greater. The Rent Stabilization Program has the legal authority to intervene in eviction cases. Willful violation of the law may make a rental property owner liable for criminal penalties.

SECTION III

RENT STABILIZATION SURVEY



RENT STABILIZATION SURVEY

THE RENT STABILIZATION SURVEY

A survey was distributed to Berkeley tenants last Fall when copies of the registration forms submitted by landlords were mailed out in accordance with Measure G.

Over 3,000 surveys have been returned and staff has compiled the information from 1,100 surveys to date.

The purpose of the survey was to assist staff in developing an educational and community outreach program and to assist the Rent Stabilization Board in determining compliance levels with the law. The survey was composed of two parts, one section of true and false questions and one section asking the tenant to provide required information about rent, maintenance, etc. A copy of the survey is provided for your information.

The following statistical report is based on information received from 1,100 surveys.

RENT STABILIZATION SURVEY

STATISTICAL DATA
(Results based on the compilation of
1,100 surveys during March 1984.)

Part 1

A rental property owner is required to go to court to force a tenant to move.

33.5% TRUE 30.0% FALSE 29.7% NOT SURE

It is illegal for a rental property owner to retaliate against a tenant by asking him/her to move or reducing services because the tenant has complained to the Rent Stabilization Board or joined a tenant organization.

85.6% TRUE 4.0% FALSE 6.0% NOT SURE

In a dispute with a rental property owner over the legal rent level, a tenant may either represent him/herself before the Rent Stabilization Board, or be represented by an attorney or a tenant advocate.

73.1% TRUE .6% FALSE 20.1% NOT SURE

Rental property owners are required to pay tenants interest on security and cleaning deposits and last month's rent every December.

70.6% TRUE 5.9% FALSE 14.1% NOT SURE

A rental property owner may not increase rents just because a new tenant moves in.

60.4% TRUE 8.9% FALSE 24.1% NOT SURE

Unless a rental property owner gets individual permission from the Rent Stabilization Board, the rent cannot be increased more than the amount of the annual rent increase (or decrease).

77.0% TRUE 1.9% FALSE 12.3% NOT SURE

Tenants who feel they are being illegally overcharged on the rent can ask the Rent Stabilization Board to hold a hearing to investigate the matter.

80% TRUE 1.1% FALSE 13.6% NOT SURE

Part 2.

1. How long have you lived in your current rental?

1-3 Years	4-6 Years	7-10 Years	11-15 Years	16-20 Years
39.9%	14.0%	13%	6.0%	6%

2. Has your landlord increased the rent since February 1, 1983? 13.7% YES 59.5% NO

3. What is your current rent? (as of 9/1/83)

\$100-\$200	\$201-\$350	\$351-\$500	\$501-\$701	\$701-\$900	\$901-\$1,200
14.5%	53%	18.5%	3.7%	2.3%	1.5%

4. If you received a rent increase you believed was illegal, what would you do? (check as many as apply)

<u>66%</u> Contact the Rent Board	<u>11.7%</u> Contact the ASUC Renter Assistance Project for Students (RAPS)
<u>25.7%</u> Contact the Berkeley Tenants Union (BTU)	<u>8%</u> Contact the City of Berkeley Housing Department
<u>8%</u> Contact an attorney	<u>5.2%</u> Move
<u>62.5%</u> Talk to the owner	<u>4.5%</u> Pay the increase
Other (describe) _____	<u>2.8%</u> Not sure

5. Did you receive interest on your deposits and last month's rent in December, 1982?

33% Yes 26% No

6. Have any tenants been asked to move (evicted) from your building in the last year?

8.4% Yes 51.4% No

7. In the last year, has maintenance in your building:

<u>5.6%</u> Increased a lot	<u>10%</u> Increased somewhat	<u>53.5%</u> Stayed the same
<u>13.1%</u> Decreased somewhat	<u>5.1%</u> Decreased a lot	

8. Who pays for utilities?

<u>12%</u> Landlord pays for all	<u>27.7%</u> Tenant pays for all
<u>45.7%</u> Tenant pays for some utilities and landlord pays for some	

9. Has the landlord asked the tenants to begin paying for some utilities previously included in the rent during the last year?

6.2% Yes 71.6% No 7.5% Not sure

10. Who do you contact for repair problems? 34.3% on-site manager

10.8% management company 46.8% owner

SAMPLE

RENT STABILIZATION SURVEY

Dear Berkeley Tenant,

The Rent Stabilization Program is currently conducting a citywide survey of tenants about the rent law. Your answers to this questionnaire will help us plan our education and community outreach program and assist the Rent Board in determining compliance levels with the law.

Please complete the questionnaire and return it to the Rent Stabilization Program office as soon as possible. You may also drop it in the Rent Stabilization boxes at the Berkeley Public Library and the five branches.

Thank you for your cooperation.

Sincerely,

Jacqueline Foster
JACQUELINE FOSTER
Program Chief
Rent Stabilization Program
November 1983

SURVEY QUESTIONNAIRE RENT STABILIZATION PROGRAM

Please check either TRUE or FALSE for each of the statements listed below. If you don't know the answer, check NOT SURE.

A rental property owner is required to go to court to force a tenant to move.

☐ TRUE ☐ FALSE ☐ NOT SURE

It is illegal for a rental property owner to retaliate against a tenant by asking him/her to move or reducing services because the tenant has complained to the Rent Stabilization Board or joined a tenant organization.

☐ TRUE ☐ FALSE ☐ NOT SURE

In a dispute with a rental property owner over the legal rent level, a tenant may either represent him/herself before the Rent Stabilization Board, or be represented by an attorney or a tenant advocate.

☐ TRUE ☐ FALSE ☐ NOT SURE

Rental property owners are required to pay tenants interest on security and cleaning deposits and last month's rent every December.

☐ TRUE ☐ FALSE ☐ NOT SURE

A rental property owner may not increase rents just because a new tenant moves in.

☐ TRUE ☐ FALSE ☐ NOT SURE

Unless a rental property owner gets individual permission from the Rent Stabilization Board, the rent cannot be increased more than the amount of the annual rent increase (or decrease).

☐ TRUE ☐ FALSE ☐ NOT SURE

Tenants who feel they are being illegally overcharged on the rent can ask the Rent Stabilization Board to hold a hearing to investigate the matter.

☐ TRUE ☐ FALSE ☐ NOT SURE

Please check the correct answer or fill in the blank for the following questions.

1. How long have you lived in your current rental? _____

2. Has your landlord increased the rent since February 1, 1983? ☐ YES ☐ NO
If yes, rent was increased how much? \$ _____

3. What is your current rent? \$ _____ (as of 9/1/83)

4. If you received a rent increase you believed was illegal, what would you do? (check as many as apply)

☐ Contact the Rent Board ☐ Contact the ASUC Renter Assistance Project for Students (RAPS)

☐ Contact the Berkeley Tenants Union (BTU) ☐ Contact the City of Berkeley Housing Department

☐ Contact an attorney ☐ Move

☐ Talk to the owner ☐ Pay the increase

☐ Other (describe) _____ ☐ Not sure

5. Did you receive interest on your deposits and last month's rent in December, 1982? ☐ Yes ☐ No If no, have you received it since? ☐ Yes ☐ No

6. Have any tenants been asked to move (evicted) from your building in the last year? ☐ Yes ☐ No If yes, if you know, list the reasons for the eviction(s)

7. In the last year, has maintenance in your building:

☐ Increased a lot ☐ Increased somewhat ☐ Stayed the same

☐ Decreased somewhat ☐ Decreased a lot

8. Who pays for utilities?

☐ Landlord pays for all ☐ Tenant pays for all

☐ Tenant pays for some utilities and landlord pays for some

9. Has the landlord asked the tenants to begin paying for some utilities previously included in the rent during the last year?

☐ Yes ☐ No ☐ Not sure

10. Whom do you contact for repair problems? ☐ on-site manager

☐ management company ☐ owner

If you would like this questionnaire placed in the property file for your building, please list your address here:

_____ (apt.#) _____

The property files are open to the public for review.

PLEASE RETURN THIS SURVEY TODAY

From: _____ (fold here and mail)

Place Stamp Here

To: Rent Stabilization Program
2180 Milvia Street
Berkeley, Ca. 94704

SECTION IV

COMPARISON OF PETITIONS PROCESSED

DECEMBER 1982

AND

DECEMBER 1983



This section of the report was prepared in response to an inquiry from members of the City Council at the March 27, 1984 workshop relative to the length of time it takes to process a landlord or tenant petition through the Rent Stabilization Program Individual Rent Adjustment process.

Staff prepared two comparison charts:

Chart A

- Landlord petitions filed in December 1982 and December 1983
and

Chart B

- Tenant petitions filed in December 1982 and December 1983.

A more comprehensive review of landlord and tenant petitions based on the six month period from July to December 1982 and July to December 1983 will be included in the May 22 report to the City Council.

With regard to the charts in this report, it should be noted that the petitions filed in December 1982 were not filed during the term of the present Senior Hearing Examiner. Also in reviewing the charts, it is important to understand that staff was able to provide information more expeditiously relative to the reasons for continuances requested in December 1983. That information is not readily available for petitions filed in 1982.

For the most part, the majority of petitions filed in December 1983 have been processed within the 120 day time frame.

CHART A

INDIVIDUAL RENT ADJUSTMENT PETITIONS FILED LANDLORD'S DECEMBER 1982

PETITION NUMBER	FILING DATE	PREHEARING HELD	HEARING HELD	CONTINUANCE	DATE DECISION MAILED	APPEAL	Number of days to final decision
L-133	12/1/82	na	Fast Track	none	1/19/83	no	49
L-134	12/7/82	na	Fast Track	none	2/2/83	yes Decision 6/3/83	152
L-135	12/8/82	na	Fast Track	none	1/24/83	no	47
L-136	12/11/82	yes	yes	yes	6/21/83	yes Decision 10/21/83	314
L-137	12/29/82	na	Fast Track	none	3/16/83	no	76
L-138	12/29/82	yes	yes	yes	4/12/83	no	103

INDIVIDUAL RENT ADJUSTMENT PETITIONS FILED LANDLORD' DECEMBER 1983

PETITION NUMBER	FILING DATE	PREHEARING HELD	HEARING HELD	CONTINUANCE	DATE DECISION MAILED	APPEAL	Number of days to final decision
L-194	12/1/83	na	Fast Track	none	12/19/83	no	18
L-195	12/14/83	na	Fast Track	none	12/20/83	no	5
L-196	12/13/83	yes	yes	none	2/15/84	no	64
L-197	12/30/83	na	Fast Track	none	1/5/84	no	6

CHART B

INDIVIDUAL RENT ADJUSTMENT PETITIONS FILED TENDANT'S DECEMBER 1982

Number of
days to
final
decision

PETITION NUMBER	FILING DATE	PREHEARING HELD	HEARING HELD	CONTINUANCE	DATE DECISION MAILED	APPEAL
T-106	12/2/82	yes	yes	yes	3/14/83	yes dismissed by parties
T-107	12/8/82	yes	yes	yes	2/15/83	no
T-108	12/10/82	yes	yes	yes	3/14/83	no
T-109	12/14/82	yes	yes	yes	3/11/83	yes Decision 7/20/83
T-110	12/14/82	yes	yes	yes	8/25/83	yes Decision 12/1/83
T-111	12/11/82	yes	yes	none	4/5/83	no
T-112	12/14/82	yes	yes	none	2/8/83	no
T-113	12/14/82	yes	yes	yes	3/30/83	no
T-114	12/14/82	yes	yes	yes	3/11/83	no
T-115	12/8/82	yes	yes	yes	3/11/83	no
T-116	12/10/82	yes	yes	yes	4/18/83	no
T-117	12/14/82	yes	yes	none	3/4/83	no
T-118	12/20/82	yes	yes	yes	4/21/83	yes Decision 7/20/83

102

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94

220

352

115

56

106

87

96

129

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122

INDIVIDUAL RENT ADJUSTMENT PETITIONS FILED TENDANT'S DECEMBER 1983

Number of
days to
final
decision

PETITION NUMBER	FILING DATE	PREHEARING HELD	HEARING HELD	CONTINUANCE	DATE DECISION MAILED	APPEAL
T-278	12/8/83	yes	no	yes - request of both parties	2/14/84	no
T-279	12/8/83	yes	no	none	12/29/83	no
T-280	12/12/83	yes	yes	none	12/30/83	no
T-281	12/16/82	yes	yes	none	3/12/84	no
T-282	12/15/83	yes	no	yes - request of both parties	1/18/84	no
T-283	12/16/83	no	yes	none	1/18/84	no
T-284	12/28/83	yes	no	none	1/11/84	no
T-285	12/28/83	yes	yes	yes - I request, all from landlord denied, 40 days allowed landlord to submit additional evidence record closing on 4/30/84	2/15/84 Proposed Decision filed, final decision to be rendered after record closes and the tenant has an opportunity to respond to landlord's additional evidence	no

68

21

18

86

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14



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CHART A

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100

CHART A